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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,392	09/25/2001	Richard C. Fuisz	56915-038	5505

7590

04/28/2005

MCDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
Washington, DC 20005-3096

EXAMINER
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CHEN, TE Y

ART UNIT	PAPER NUMBER
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2161

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/961,392

Applicant(s)

FUISZ, RICHARD C.

Examiner

Susan Y. Chen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 February 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 12-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-11 and 28-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

This office action is in response to the amendment filed on 02/10/2005.

Claims 1-31 are pending for examination, claims 12-27 have been withdrawn and claims 28-31 are newly added.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11 and 28-31, are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,415,307 issued to Jones et al. (hereinafter referred as Jones).

As to claims 1 and 28-29, Jones discloses a visual image marketing method [e.g., Abstract; col. 1, lines 12 - 20, lines 25 - 45], comprising the steps of: recording object location, time information and marketing information [e.g., Fig. 2 and associated texts]; receiving a product input from a viewer [e.g., the Find: String Entry Field, Fig. 2];

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retrieving said marketing information based at least in part on said object location; and displaying said marketing information [e.g., using the Find (company Name in any sector), result Displayed in the lower field, Fig. 5], wherein the object location refers to a non-textual object [e.g., the previous/next story icon and the previous/ next page icons, Fig. 2] and they are varied in time.

As to claims 2 and 30-31, Jones discloses a system for providing marketing information comprising: a first transmitter [e.g., 10, Fig. 1] configured to transmit to one or more viewers a sequence of images, wherein at least one item having associated marketing information is included in a portion of the sequence of images [e.g., Fig.(s), 2-7]. Moreover, the location of the at least one item varies during the portion of the sequence of images [e.g., col. 6, lines 20-43] and the sequence of images comprises a plurality of frames of a video [e.g., Fig.(s) 2-7]; a receiver configured to receive data from one of the viewers, wherein the data at least partially identifies the item [e.g., the personal computer, col. 6, lines 2 – 20]; a database configured to store and provide the associated marketing information about the identified item [e.g., the database storing the representation of each published document, col. 8, lines 60-63, col. 14, line 62 – col. 15, line 45], and a second transmitter configured to transmit to the at least one viewer the associated marketing information [e.g., the internet at col. 5, lines 50-52].

As to claim 3, Jones discloses the system according to claim 2, wherein: the first transmitter is further configured to transmit to the viewers information relating to the

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spatial location of the item within the portion of the sequence of images, wherein the sequence of images and the spatial location information are transmitted substantially simultaneously [e.g., col. 5, lines 46 – 61, col. 15, lines 46 – col. 16, line 26].

As to claim 4, Jones discloses the system according to claim 2, wherein the received data is an item identifier useful for querying the database regarding the item [e.g., col. 4, lines 63 – col. 5, line 22].

As to claim 5, Jones discloses the system according to claim 2, wherein the received data are pixel coordinates and the database is further configured to map between the pixel coordinates and an item identifier useful for querying the database [e.g., col. 13, lines 6-21].

As to claim 6, Jones discloses the system according to claim 2, wherein said first and second transmitter are one and the same [e.g., col. 5, lines 46-57, Note: the internet communication used by the prior art makes the system an open system by default].

As to claims 7-8, Jones discloses the system according to claim 2, wherein the first and second transmitter is configured to transmit to a personal computer [e.g., col. 5, lines 46 – col. 6, lines 5].

As to claims 9 and 10, Jones discloses the system according to claim 2, wherein the receiver and the second transmitter are configured to operate during operation of the first transmitter and after the first transmitter has substantially completed operation [the claimed features are the nature of Internet communication].

As to claim 11, Jones discloses the system according to claim 2, wherein the database is further configured to store and provide the associated marketing information about the identified item according to at least one of: a name associated with the sequence of images, a grid location of the identified item within an image, a pixel location within an image, a transmission time associated with the sequence of images, a temporal location within the sequence of images, an item type, an item color, an item shape, a measurement of similarity with the item, and a participant within the sequence of images [e.g. col. 13, lines 1-21].

### ***Response to Arguments***

Applicant's arguments filed on 02/10/2005 have been fully considered but they are not persuasive.

The examiner disagrees with applicant's argument that "Jones fails to retrieve marketing information based on location as requested by claim 1. In contrary to this argument, the examiner points out that Jones clearly discloses a function -- the Find

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(company Name in any sector) to retrieve the marketing information as displayed in the lower field of Fig. 5.

Furthermore, In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the time data is recorded for the use of a grid to search the grid coordinates) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Y. Chen whose telephone number is 571-272-4016. The examiner can normally be reached on Monday - Friday from 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan Y Chen  
Examiner  
Art Unit 2161

April 24, 2005

  
**UYEN LE**  
**PPAIR EXAMINER**